

REMARKS

I. Introduction

Claims 40-58 are pending in this case.

The Examiner rejects claims 50 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. The Examiner rejects claims 40, 42-44, 46-49, 52, 53, 55, and 57 under 35 U.S.C. § 102(e) as being anticipated by Sachdeva et al. U.S. patent 5,885,258 (hereinafter "Sachdeva"). The Examiner rejects claims 40-44, 46-49, 51, 54, 55, and 57 under 35 U.S.C. § 102(e) as being anticipated by Simon U.S. patent 5,741,297 (hereinafter "Simon"). The Examiner rejects claims 40-45, 47-49, and 57 under 35 U.S.C. § 102(e) as being anticipated by Huebsch et al. U.S. patent 5,853,422 (hereinafter "Huebsch"). The Examiner rejects claims 40, 42, 43, 46-49, and 55-57 under 35 U.S.C. § 102(e) as being anticipated by Lock et al. U.S. patent 5,709,707 (hereinafter "Lock"). The Examiner rejects claims 41 and 58 under 35 U.S.C. § 103(a) as being unpatentable over Sachdeva. The Examiner rejects claim 58 under 35 U.S.C. § 103(a) as being unpatentable over Simon.

Applicants have amended independent claim 40 to more particularly define the invention. Applicants have added new claims 102-107. No new matter has been added. The Examiner's rejections are respectfully traversed.

II. The Examiner's Rejection under  
35 U.S.C. § 112, First Paragraph

The Examiner rejects claim 50 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. In particular, the Examiner contends that the fingers of different lengths set forth in claim 50 are not supported in the original specification. Applicants respectfully disagree. Applicants direct the Examiner's attention to page 18, line 30 through page 19, line 8 and FIG. 16 of applicants' originally-filed specification. Applicants submit that these portions of applicants' original application fully describe and support the subject matter of claim 50. Accordingly, applicants respectfully request that this rejection be withdrawn.

III. The Examiner's § 102 Rejections

The Examiner rejects claims 40, 42-44, 46-49, 52, 53, 55, and 57 under 35 U.S.C. § 102(e) as being anticipated by Sachdeva. The Examiner rejects claims 40-44, 46-49, 51, 54, 55, and 57 under 35 U.S.C. § 102(e) as being anticipated by Simon. The Examiner rejects claims 40-45, 47-49, and 57 under 35 U.S.C. § 102(e) as being anticipated by Huebsch. The Examiner rejects claims 40, 42, 43, 46-49, and 55-57 under 35 U.S.C. § 102(e) as being anticipated by Lock. Applicants have

amended independent claim 40 to more particularly define the invention. Support for the amendment to claim 40 can be found, for example, at page 15, line 17 to page 16, line 33 and FIG. 13 of the specification. No new matter has been added. The Examiner's rejections are respectfully traversed.

Applicants' independent claim 40 is directed toward a plug for use in plugging an aperture through a patient's body structure. The plug includes a medial tubular portion with perforations that enable the medial tubular portion to change in circumference. Resilient fingers that are integral with the medial tubular portion extend substantially radially out from an axial end of the medial tubular portion. A plugging structure substantially occludes the medial tubular portion.

Applicants submit that independent claim 40 is allowable over each of Simon, Huebsch, and Lock at least because none of these three references show a medial tubular portion having perforations that enable the medial tubular portion to change in circumference. Applicants submit that independent claim 40 is allowable over Sachdeva at least because Sachdeva fails to show or suggest a perforated medial tubular portion which is integral with resilient fingers that extend substantially radially out from an axial end of the medial tubular portion. At most, Sachdeva refers to mutually exclusive embodiments of

medical instruments designed for varying functions, in which slots may be cut into a tube, alternatively, at or near the distal end of the tube. However, Sachdeva fails to show or suggest a plug with both a perforated tubular medial portion and integral resilient fingers that extend from an axial end of the medial tubular portion.

Therefore, for at least the foregoing reasons, applicants submit that independent claim 40 allowable over each of Sachdeva, Simon, Huebsch, and Lock. Accordingly, applicants respectfully request that the § 102 rejections of claims 40-58 be withdrawn.

#### IV. The Examiner's § 103 Rejections

The Examiner rejects claims 41 and 58 under 35 U.S.C. § 103(a) as being unpatentable over Sachdeva. The Examiner rejects claim 58 under 35 U.S.C. § 103(a) as being unpatentable over Simon. Applicants submit that dependent claims 41 and 58 are patentable at least because the foregoing demonstrates that independent claim 40, from which claims 41 and 58 depend, is patentable. Therefore, applicants respectfully request that the § 103 rejections of claims 41 and 58 be withdrawn.

#### V. New Claims 102-104

Applicants have added new claims 102-104 to further set forth dependent features of independent

claim 40. Support for claim 102 can be found in applicants' originally-filed specification at, for example, page 17, lines 21-31 and FIGS. 3 and 5. Support for claim 103 can be found at, for example, page 7, line 26 to page 8, line 31. Support for claim 104 can be found at, for example, page 15, lines 26-30. No new matter has been added. Applicants respectfully submit that claims 102-104 are patentable at least because the foregoing demonstrates that independent claim 40, from which claims 102-104 depend, is patentable.

#### VI. New Claims 105-107

Applicants have added new independent claim 105 and dependent claims 106 and 107. Support for new claims 105-107 can be found in applicants' originally-filed specification at, for example, page 19, line 18 to page 20, line 15. No new matter has been added. Applicants' new independent claim 105 is directed toward a plug that includes a medial tubular portion and resilient fingers that are integral with the medial tubular portion. Each of the resilient fingers possess different flexural stiffness at different points along its length. Such differences in flexural stiffness may be accomplished, for example, by varying the thickness or width of each of the resilient fingers along its length. Applicants respectfully submit that new independent claim 105 is patentable over each of

Sachdeva, Simon, Huebsch, and Lock at least because none of these references show or suggest resilient fingers, integral with the medial tubular portion, that each possess different flexural stiffness at different points along its length.

VII. Conclusion

In view of the foregoing, this application is in condition for allowance. Reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,



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